

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Gary William Flake
Application No. : 10/625,000
Filed : July 22, 2003
Title : CONCEPT VALUATION IN A TERM-BASED CONCEPT
MARKET
Examiner : Neil R. Kardos
Art Unit : 3623

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

PRELIMINARY AMENDMENT

Sir:

In response to the final Office Action dated February 12, 2008, please reconsider the above-identified application in light of the following:

Amendments to the Claims begin on page 2 of this paper; and

Remarks begin on page 5 of this paper.

AMENDMENTS TO THE CLAIMS

The listing of claims will replace all prior versions, and listings, of claims in the application.

1. (Currently Amended) In a computerized system for allowing transactions in instruments, the instruments being capable of being valued based on values of term-based concepts, and terms of the concepts being useable in computerized searches, a method for valuing a concept comprising a set of one or more terms, the method comprising:

obtaining quantitative data associated with at least one of the concept and one or more of the terms of the term set;

operating on the data to produce a quantitative statistic; and

determining a value of the concept based at least in part on the produced statistic such that the value is used in the computerized system allowing transactions in the instruments, wherein the value of the concept is used to determine the value of one or more of the instruments.

2. (Original) The method of claim 1, comprising obtaining quantitative data associated with at least one of demand for the concept and demand for one or more of the terms of the term set.

3. (Original) The method of claim 1, comprising obtaining quantitative data associated with at least one of demand for the concept for use in advertising and demand for one or more of the terms of the term set for use in advertising.

4. (Original) The method of claim 3, comprising measuring the demand for use in advertising based on one or more amounts paid for use in advertising.

5. (Original) The method of claim 4, comprising measuring the demand for use in advertising based on one or more amounts paid for use in advertising, wherein the use in advertising comprises obtaining one or more rights to have an advertisement included in results from one or more computerized searches using at least one of the terms of the term set.

6. (Original) The method of claim 1, comprising operating on the data by using the data in at least one mathematical formula.

7. (Original) The method of claim 6, comprising collecting quantitative data relating to one or more Pay-Per-Click auctions.

8. (Original) The method of claim 7, comprising operating on the data by using at least one of a total revenue per period calculation, a median revenue per period calculation, an average revenue per period calculation, an average of median bid price calculation, and a median of median clicked price calculation, and a median click calculation.

9. (Original) The method of claim 8, comprising taking at least one measure to prevent intentional manipulation of the value of the concept.

10. (Original) The method of claim 8, comprising taking at least one measure to maintain liquidity.

11. (Original) The method of claim 8, comprising operating on the data by using a median click calculation, and comprising omitting from the median click calculation one or more highest and lowest price quantities.

12. (Previously Presented) The method of claim 11, comprising omitting from the median click calculation the same number of highest price quantities as lowest price quantities.

13. (Currently Amended) In a computerized system for allowing transactions in instruments, the instruments being capable of being valued based on values of term-based concepts, and terms of the concepts being useable in computerized searches, a method for valuing a concept comprising a set of one or more terms, the method comprising:

obtaining quantitative data associated with at least one of demand for the concept and demand for one or more of the terms of the term set;

operating on the data to produce a quantitative statistic; and

determining a value of the concept based at least in part on the produced statistic, comprising taking at least one measure to prevent intentional manipulation of the value of the concept such that the value is used in the computerized system allowing transactions in the instruments, wherein the value of the concept is used to determine the value of one or more of the instruments.

14. (Original) The method of claim 13, comprising using a median click calculation in determining the statistic, and comprising omitting from the median click calculation one or more highest and lowest price quantities.

REMARKS

In the Office Action mailed February 12, 2008, the Examiner rejects claims 1 through 10 and 13 under 35 U.S.C § 102(e) as being anticipated by US Patent Publication Number 2003/0105677 to Skinner, et al. ("Skinner"). Claims 11, 12 and 14 stand rejected under 35 U.S.C § 103(a) as being unpatentable over Skinner in view of Official Notice.

Claims 1 through 14 are currently pending in the present application, with claims 1 and 13 being independent claims. By way of the present Response, Applicants hereby amend independent claims 1 and 13. No new matter has been added and the amendments are supported by the specification as originally filed. For at least the reasons set forth below, Applicants respectfully submit that all pending claims are allowable and respectfully request withdrawal of the rejection of claims 1 through 14.

Claims 1 through 10 and 13 are rejected under 35 U.S.C § 102(e) as being anticipated by Skinner. Independent claim 1 is directed towards a method for valuing a concept comprising a set of one or more terms in a computerized system for allowing transactions in instruments, the instruments being capable of being valued based on values of term-based concepts, and terms of the concepts being useable in computerized searches. The method comprises obtaining quantitative data associated with at least one of the concept and one or more of the terms of the term set, operating on the data to produce a quantitative statistic and determining a value of the concept based at least in part on the produced statistic such that the value is used in the computerized system allowing transactions in the instruments, wherein the value of the concept is used to determine the value of one or more of the instruments.

Independent claim 13 is also directed to a method for valuing a concept comprising a set of one or more terms in a computerized system for allowing transactions in

instruments, the instruments being capable of being valued based on values of term-based concepts, and terms of the concepts being useable in computerized searches. The method comprises obtaining quantitative data associated with at least one of demand for the concept and demand for one or more of the terms of the term set, operating on the data to produce a quantitative statistic and determining a value of the concept based at least in part on the produced statistic, comprising taking at least one measure to prevent intentional manipulation of the value of the concept such that the value is used in the computerized system allowing transactions in the instruments, wherein the value of the concept is used to determine the value of one or more of the instruments.

Skinner discusses an automated web ranking system that enables advertisers to dynamically adjust pay-per-click bids to control advertising costs by tracking search terms that are used to market an advertiser's product or services in online marketing media ("OMM"), such as search engines, portals, banner advertisements, affiliate programs. (Skinner, Abstract and ¶ 12). Skinner fails to disclose all of the claimed elements of independent claims 1 and 13, as currently amended. Specifically, Skinner fails to teach or suggest "determining a value of the concept based at least in part on the produced statistic such that the value is used in the computerized system allowing transactions in the instruments, wherein the value of the concept is used to determine the value of one or more of the instruments."

The system of Skinner determines a search term's effectiveness by collecting and analyzing data relating to the number of impressions, the number of clicks, and the number of resulting sales generated by a search term at a given time period to calculate a maximum acceptable bid for the search term. (Skinner, ¶ 12). The system in Skinner further monitors the

web for competitors' bids on an advertiser's search term(s) and places bids that fall below the maximum acceptable bid. (Skinner, ¶ 12).

Skinner, therefore, serves to provide a system that allows an advertiser to calculate a bid for a search term to secure a certain positioning and to then adjust the bid based on a competitor's activity. Determining bid amounts for search terms to secure positioning in a search results listing is not analogous to determining a value of a concept that is used to determine the value of an instrument that allows transactions. A transaction may constitute any type of transaction activity relating to the instrument, such as the instrument being traded, exchanged, bought, sold or bet upon. The value of the concept that is determined according to the presently claimed invention, therefore, is used as part of the transaction activity relating to the instrument. Skinner, by contrast, simply does not teach or suggest either instruments or transaction activity relating to instruments, and therefore does not disclose determining values for concepts that is used in relation to such instruments. At best, Skinner discusses the determination of a bid amount for a search term that is used by an advertiser.

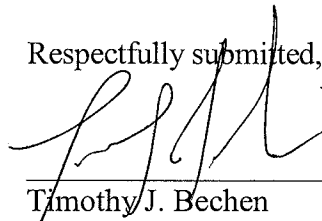
Applicants have conducted a thorough review of Skinner and respectfully assert that Skinner, considered alone or in combination with the prior art of record, does not teach or suggest at least "determining a value of the concept based at least in part on the produced statistic such that the value is used in the computerized system allowing transactions in the instruments, wherein the value of the concept is used to determine the value of one or more of the instruments." Accordingly, Applicants respectfully request withdrawal of the rejection of independent claims 1 and 13 and allowance of the same.

The dependent claims of the present application contain additional features that further substantially distinguish the invention of the present application over Skinner and the

prior art of record. Given the Applicants' position on the patentability of the independent claims, however, it is not deemed necessary at this point to delineate such distinctions.

For at least all of the above reasons, Applicants respectfully request that the Examiner withdraw all rejections, and allowance of all the pending claims is respectfully solicited. To expedite prosecution of this application to allowance, the Examiner is invited to call the Applicants' undersigned representative to discuss any issues relating to this application.

Respectfully submitted,



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